

FILED

United States District Court

JUN 28 2006

MIDDLE

DISTRICT OF

ALABAMA

CLERK

U. S. DISTRICT COURT
MIDDLE DIST. OF ALA.

In the matter of the Search of

(Name, address or brief description of person, property or premises
to be searched)

**APPLICATION AND AFFIDAVIT
FOR SEARCH WARRANT**

See Attachment A

CASE NUMBER: 2:06mj66-CSC

I Timothy Fitzpatrick being duly sworn depose and say:

I am a(n) agent with the Bureau of Alcohol, Tobacco, Firearms, & Explosives and have reason to
believe that ☐ on the person of or ☒ on the property or premises known as (name, description and/or location)

See Attachment A,

in the Middle District of Alabama
there is now concealed a certain person or property, namely (describe the person or property to be seized)

See Attachment B

which is (state one or more bases for search set forth under Rule 41(b) of the Federal Rules of Criminal Procedure)

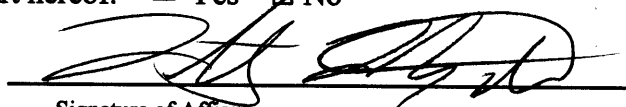
property that constitutes evidence of the commission of a criminal offense,

concerning a violation of Title 26 United States Code, Section(s) 5861

The facts to support the issuance of a Search Warrant are as follows:

See Attached Affidavit

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No


Signature of Affiant

Sworn to before me and subscribed in my presence,

JUNE 14, 2006 at Montgomery, Alabama
Date City and State

CHARLES S. COODY
United States Magistrate Judge
Name & Title of Judicial Officer


Signature of Judicial Officer

ATTACHMENT A

DESCRIPTIONS OF THINGS TO BE SEARCHED

The Premises

The Premises of Adam Lamar Robinson
Address: 1708 Formosa Court
including all outbuildings and appurtenances thereto
in the City of Deatsville
in the County of Autauga
in the Middle District of Alabama

The Vehicle

N/A

Premises' Physical Description

Stories - 1
Construction Type – Brick
Color - Red with green shutters
Garage/Carport – Attached carport on right side of residence. Shed in the rear yard of the residence, tan in color

ATTACHMENT B

DESCRIPTION OF EVIDENCE TO BE SEARCHED FOR AND SEIZED

FIREARMS

One Weihrauch Silencer, no serial number

Any firearms and/or ammunition as defined in Title 18, Chapter 44, Section 921.

DOCUMENTS

All documents and/or data relating to the possession, transfer or purchase of firearms, to include computer equipment and or phone records.

INDICIA OF CONTROL OF THE PREMISES

Records that establish the persons who have control, possession, custody or dominion over the property and vehicles searched and from which evidence is seized, such as: personal mail, checkbooks, personal identification, notes, other correspondence, utility bills, rent receipts, payment receipts, financial documents, keys, photographs (developed or undeveloped), leases, mortgage bills, and vehicle registration information or ownership warranties, receipts for vehicle parts and repairs and telephone answering machine introductions and fingerprints.

AFFIDAVIT

I, the undersigned affiant, being duly sworn, state the following is true and correct to the best of my knowledge and belief. My name is Timothy C. Fitzpatrick. I am a Special Agent with the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). I am presently assigned to the Montgomery, Alabama Field Office. The Montgomery Field Office is one of several ATF offices supervised by the Nashville Field Division, which encompasses Alabama and Tennessee. The Montgomery Field Office's area of operation is the Middle Federal Judicial District of Alabama.

In 1992, I graduated from the New Orleans Police Department Academy and served as a police officer until 1997. During my tenure with the New Orleans Police Department I served as an investigator for approximately three years. In 1997, I graduated from the Louisiana State Police Academy and served as a State Trooper until 2004. During my tenure with the Louisiana State Police I served as a narcotics investigator for approximately four years. In 1999, I received an Associate of Arts Degree in Criminal Justice from Delgado Community College in New Orleans and in 2001; I received a Bachelor of Criminal Justice Degree from Loyola University in New Orleans. I am a graduate of the Criminal Investigator Training Program at the Federal Law Enforcement Training Center and a graduate of Special Agent Basic Training at the ATF National Academy. I have been a Special Agent with ATF since August 2004.

My duty as a Special Agent is to enforce federal law. As an ATF Special Agent, I investigate violations of federal firearms and explosive laws. As a result of my training and experience as an ATF Special Agent, I am familiar with Federal criminal laws and know that it is a violation of Title 26 U.S.C. Chapter 53 Section 5861(d) to receive or possess a firearm which is not registered to him in the Nation Firearms Registration and Transfer Record

or (i) to receive or possess a firearm which is not identified by a serial number as required by this chapter or (k) to receive or possess a firearm which has been imported or brought into the United States in violation of section 5844.

Based on my experience in conducting and participating in search warrants, the experience and knowledge of conducting search warrants to which I have been exposed, and my instruction at the ATF academy, I know:

1. That persons possess in their residences, businesses, other real property and vehicles over which they have dominion and control, documents which indicate their occupancy and/or ownership such as: personal mail, checkbooks, identification, notes, correspondence, utility bills, rent receipts, payment receipts, financial documents, keys, photographs, leases, mortgage bills, vehicle registration information, ownership warranties, receipts for vehicle parts and repairs, telephone answering machine introductions, that persons often have containers of undeveloped photographic film, containing photographs (when developed) of themselves occupying the property and vehicles and that these containers of film are usually located within the property and/or vehicles which are under their dominion and control.
2. That most people store their firearms in their homes; and
3. That persons who possess firearms usually possess other items related to firearms, such as: gun cases, ammunition, ammunition magazines, holsters, spare parts, cleaning equipment, photographs of firearms and receipts for the purchase of these items.


4. This affidavit is being made in support of an application for an **anticipatory warrant** to search the entire premises located at 1708 Formosa Court, Deatsville, Alabama. The premises to be searched are more particularly described in Attachment "A" of this affidavit.
5. The factual information contained in this application and affidavit is based upon my investigation and upon information provided to me orally and in written form by other law enforcement officers. Because this affidavit is being submitted for the purpose of securing an anticipatory search warrant, it does not contain all the information from the investigation, but only those facts deemed necessary to establish probable cause for the requested anticipatory search warrant.
6. I have probable cause to believe that evidence in violation of Title 26, United States Code, Chapter 53, Section 5861 involving the importation of firearms and prohibited parts into the United States as well as the unregistered possession or transfer of firearms and prohibited firearm parts by individual(s), will be located on and within the premises of 1708 Formosa Court. Based upon the following information, there is probable cause to believe that the above identified premises will contain contraband upon delivery of the requested item, described as a silencer, as defined in Title 18 United States Code, Section 921. A silencer is further classified as a firearm in Title 26, United States Code, Section 5845. Additionally, it is believed the premises will contain evidence, fruits, and instrumentalities of receipt and possession of firearms and firearm parts, as described below and in Attachment B.
7. On June 1, 2006, U.S. Customs and Border Protection (CBP) Inspector D. Nugent in Chicago, Illinois was assigned to work foreign mail when he intercepted a parcel coming from Maulburg, Germany. The

package was destined for Adam ROBINSON at 1708 Formosa Court, Deatsville, Alabama, 36022 USA. The parcel was also marked declaring it as a "CO-2-Set". Upon further investigation, Officer Nugent discovered the parcel contained an item which he believed to be a silencer for a firearm. A "firearm silencer" or "firearm muffler" means any device for silencing or muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication. (See Title 18, United States Code, Section 921(a)(24)). The parcel also contained a document in the English and German language stating the item was a Weihrauch-Silencer. The documentation included installation instructions.

8. On June 2, 2006, Immigration and Customs Enforcement (ICE) Special Agent David Henderson transferred the mail package containing the silencer to your Affiant. The silencer did not have an identifying serial number stamped on it as required by federal law. Your Affiant subsequently forwarded the silencer to the ATF Firearms Technology Branch (FTB) for an official determination of the silencer.
9. On June 6, 2006, Ed Turner of the ATF Firearm Technology Branch contacted your Affiant and provided me with a verbal confirmation that the product was classified as a silencer based on its characteristics and his physical evaluation of the item. On June 9, 2006, your Affiant faxed information regarding ROBINSON to the National Firearms Registration and Transfer Record and requested a check for any lawful possession or registration of the silencer. On June 14, 2006, the National Firearms Registration and Transfer Record personnel reported to your Affiant that ROBINSON has no firearms, to include silencers, registered to him in the National Firearms Registration and Transfer Record.

10. Between the dates of June 14, 2006, and June 21, 2006, ATF agents in conjunction with the United States Postal Inspection Service will initiate a controlled delivery of the mail package containing the silencer to ROBINSON's residence. At the residence, a United States Postal Inspector will act as a mail carrier. Once the package is delivered to 1708 Formosa Court, ATF agents will await and verify the package has moved into the residence by hand delivery from the undercover mail carrier or the retrieval of the mail by the resident at 1708 Formosa Court. Prior to initiating the search, agents will allow reasonable time for the package to be opened inside the residence. After waiting a reasonable time, federal agents will then execute the anticipatory search warrant.
11. Criminal History checks indicate that ROBINSON is a multi-convicted felon in the state of Alabama. According to criminal records, ROBINSON was convicted in 1981 for felony possession of a pistol and Burglary III. Furthermore, in 1987, ROBINSON was convicted of Theft 2nd Degree. The criminal record check also indicates ROBINSON is currently on parole until 2012. However, according to the Alabama Department of Pardon and Parole, ROBINSON may have been pardoned in 1997 for these crimes. To date, no certificate of pardon for ROBINSON has been located by the Alabama Department of Pardon and Parole.

Based on the foregoing facts, my knowledge and experience, I believe there is probable cause to believe that the items requested in this search warrant application will be found at the place to be searched and will constitute evidence of violations of Title 26, United States Code, Section 5861. Therefore, I respectfully request that this honorable court issue the requested anticipatory search warrant for 1708 Formosa Court, Deatsville, Alabama 36022.



Timothy Fitzpatrick, Special Agent, ATF

Sworn to and subscribed by me this 14th day of June, 2006.



U.S. MAGISTRATE JUDGE